

Handling charges represent a retailer's cost of doing business, and are consequently always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. (This is a GIL).

November 4, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter to the Illinois Attorney General, which we received from that office on November 2, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

A year or two ago I talked to a Lady in your office about this COMPANY charging me Sales Tax on Shipping and Handling.

I received a letter from you telling me something like you would do what you can but if you couldn't do any more it would be up to me to think about 'taking the matter into my own hands'.

Well, you never heard anymore from me because I am on a fixed income and I can't 'take the matter into my own hands'.

In case you want to do anything about it I am sending you three copies of the bill I received from them.

The reason I don't just quit buying from this Company to solve the whole problem is that I have their complete set of PRODUCTS.

I don't know how long they have been charging me tax on shipping and handling but I just noticed it two years ago when I first contacted your office.

I hope you can do something about this because you told me yourself it is Illegal.

Technically, handling charges represent a retailer's cost of doing business. A retailer's costs of doing business are always included in gross charges subject to tax. See, 86 Ill. Adm. Code 130.410. However, the Department recognizes that handling charges are often stated in combination with shipping charges. Charges labeled as "shipping and handling," or "delivery or transportation" charges are not taxable if it can be shown that such charges are separately contracted for and are reflective of the actual costs of shipping. To the extent that shipping and handling charges exceed the costs of shipping, the excess is subject to tax.

The best evidence that "shipping and handling" or delivery charges have been contracted for separately are actual separate contracts for "shipping and handling" or delivery. However, the department will accept documentation that demonstrates that purchasers had the option of taking delivery of the property at the sellers' location for the agreed purchase price plus a specific delivery charge. As stated above, if retailers charge customers shipping and handling or delivery charges that exceed the retailers' cost of providing the transportation or delivery, the excess amount is subject to tax.

Mail order delivery charges are generally deemed to be agreed upon separately from the selling price of the tangible personal property being sold. In order for the charges to be non-taxable the mail order form must require a separate charge for delivery and the charges for "shipping and handling" or delivery must reflect the actual costs of shipping. See subsection (d) of Section 130.415. Once again, if the retailer charges a customer shipping and handling or delivery charges that exceed the retailer's cost of providing the transportation or delivery, the excess amount is subject to tax.

From the statement you included with your letter, it appears that you are purchasing the books from COMPANY by mail order. As stated above, these charges are not taxable unless they exceed the retailer's cost of providing the delivery. Even in that case, only the excess amount is subject to tax. We have referred this case to our Audit Bureau for review. Please note that Illinois law requires that all overcollections of tax must either be turned over to the Department or refunded to the customer. A "knowing" overcollection of tax constitutes a Class 4 felony. Please feel free to include this letter with any correspondence you send to COMPANY. We hope it helps to clarify this matter.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.